

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

ORIGINAL

DF
Cm

MARK SYRKIN,

★ SEP 29 2005 ★

Plaintiff,

BROOKLYN OFFICE

-against-

MEMORANDUM AND ORDER

Case No. 04-CV-4336 (FB) (RML)

STATE UNIVERSITY OF NEW YORK, ROBERT
L. KING, in his official capacity as Chancellor of
the State University of New York, and/or his
successor(s), and JOHN W. CRAINE, JR., in his
official capacity as President or Interim President of
the State University of New York Maritime College,
and/or his successor(s),

Defendants.

Appearances:

For the Plaintiff:

JAMES M. MALONEY, ESQ.
33 Bayview Avenue
Port Washington, NY 11050

For the Defendants:

KATHRYN CARTER SPANN, ESQ.
Assistant Attorney General
New York State Attorney General
120 Broadway, 24th Floor
New York, NY 10271

BLOCK, District Judge:

By endorsed order dated November 2, 2004, Magistrate Judge Levy granted defendants an extension of time to December 17, 2004, to answer or move to dismiss Syrkin's amended complaint. On December 16, 2004, defendants served a letter seeking a pre-motion conference on their proposed motion to dismiss. Syrkin moves for a default judgment on the ground that defendants failed to answer or move to dismiss within the prescribed time.

The Court's Individual Motion Practices required a pre-motion conference before a motion to dismiss could be filed in this case. Service of the letter requesting such a conference

constituted service of the motion to dismiss. As the letter was served within the prescribed time, defendants are not in default; therefore, Syrkin's motion is denied.

FREDERIC BLOCK
United States District Judge

Brooklyn, New York
September ____, 2005